

MEMORANDUM OF UNDERSTANDING
between
the
U.S. Immigration and Customs Enforcement (ICE)
and
Washington Department of Corrections

ICE OI Directives 05-008 and 06-007

I. Purpose

The above listed law enforcement agency and ICE agree that effective enforcement of the laws relating to ICE jurisdiction requires close cooperation and coordination between the two agencies, and have therefore entered into this agreement to govern the use of ICE designations by certain employees of your agency.

II. Agreement

There may be instances when it may be desirable on occasion for certain sworn law enforcement employees of your agency to be able to perform certain ICE duties. Pursuant to section 401(l), Tariff Act of 1930, as amended, (19 U.S.C. 1401(l)), the Secretary of Homeland Security or his/her designee is authorized to designate persons as Customs Officers (Excepted) who are designated to perform the duties of an ICE Officer. The designated Customs Officers will have the authority to enforce "Customs" laws. This agreement does not grant the designated Customs Officers the authority to enforce "Immigration" laws.

The terms and authorities referenced herein may be renamed or replaced by ICE without prejudice to this agreement.

The two agencies have, therefore, entered into an agreement as follows:

A. The U.S. Immigration and Customs Enforcement agrees:

1. *to designate certain employees of your agency as Customs Officers (Excepted), without additional compensation, to perform the duties shown on the attached "Designation, Customs Officer" form (which is hereby made part of the agreement);*
2. *to provide appropriate training in Customs laws, policies, and procedures to the designated employees;*
3. *to issue a "Designation, Customs Officer," as described in A1 above to each qualified employee;*
4. *to advise your officers regarding any court proceedings that question any seizures or arrests that are made in accordance with this agreement;*
5. *to process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to local law officers acting pursuant to this agreement, for compensation under the Federal Employees Workers Compensation Act (5 U.S.C. 8101, et. seq.);*

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B. The above listed law enforcement agency agrees:

1. to advise ICE of each situation in which the agency proposes to use an ICE designation;
2. that ICE designations to employees of your agency will be used only in situations where there has been specific advance approval by the appropriate Special Agent in Charge or Resident Agent in Charge. Designations will be used only for the duration of the specified law enforcement activity for which the approval was extended, and to the extent of such approval.
3. that only personnel who are sworn law enforcement officers of your agency and who successfully complete the appropriate ICE cross-designation training and received a "Designation, Customs Officer" form will be granted Customs Officer status;
4. to report to ICE, in writing, the results of all activity undertaken by the designated Customs Officer as a consequence of the Customs cross designation authority;
5. to advise ICE of each court proceeding in which the validity of ICE search, seizures, or arrest authority has become an issue; and to permit ICE to provide legal memoranda or other assistance in such cases when desired by ICE.
6. to follow ICE directives and instructions that are applicable to ICE concerning ICE search, seizure, and arrest authority;
7. to return all ICE equipment and identification if issued, when a cross designated officer terminates employment for any reason.

Both agencies agree to:

1. recognize that any abuse of ICE cross designation authority may lead to the revocation of such cross designations by ICE;
2. agree to exchange implementing instructions prior to issuance; and
3. agree to schedule periodic meetings to review this agreement.

This Memorandum of Understanding is an internal agreement between government agencies. It does not create or confer any rights, privileges, or benefits for any private person or party.

Approved By Law Enforcement Agency	Approved By ICE
Name of Agency: <u>Department of Corrections</u>	ICE Agency: HSI Seattle, WA
Name: <u>Carly Banning</u>	Name: Bradford A. Bench
Title: <u>Contracts Administrator</u>	Title: Special Agent in Charge
Signature/Date: <u>[Signature]</u> 5/1/14	Signature/Date: <u>[Signature]</u> 5/2/14

ICE Form 73-002 (05/05)

MEMORANDUM OF UNDERSTANDING

between

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
HOMELAND SECURITY INVESTIGATIONS

and

Washington Department of Corrections (DOC)

regarding

**THE DESIGNATION OF Washington Department of Corrections EMPLOYEES
AS CUSTOMS OFFICERS (EXCEPTED)**

1. **PARTIES.** The Parties to this Memorandum of Understanding (MOU) are U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) and Washington DOC.
2. **AUTHORITY.** Title 19, United States Code (U.S.C.), Section 1401(i); 19 U.S.C. § 1589a. This MOU is also authorized under the provisions of RCW 39.13.44 other Party's authorities.
3. **PURPOSE.** The Parties agree that effective enforcement of the laws relating to HSI jurisdiction requires close cooperation and coordination between the two Parties. The Parties have therefore entered into this MOU to govern the use of HSI designations by certain employees of the Washington Department of Corrections.

Pursuant to section 401(i), Tariff Act of 1930, as amended (19 U.S.C. § 1401(i)), the Secretary of Homeland Security is authorized to designate persons as Customs Officers (Excepted) to perform the duties of a Customs Officer. Within ICE, this authority has been delegated to the HSI Special Agents in Charge. Pursuant to 19 U.S.C. § 1589a, customs officers are authorized to enforce the full range of federal offenses. However, in designating Customs Officers (Excepted), HSI is not conveying the authority to enforce administrative violations of immigration law.

There may be instances when HSI determines that it is desirable for certain sworn law enforcement employees of the Washington Department of Corrections to perform certain HSI duties. This MOU sets forth the agreement and relationship between the Parties with respect to this determination.

4. **RESPONSIBILITIES.**

The Parties agree as follows:

HSI agrees to:

- a. Designate certain employees of the Washington Department of Corrections as Customs Officers (Excepted), without additional compensation, to perform the duties as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). This form is attached and is hereby made part of this MOU;
- b. Issue a "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) to each qualified and designated employee;
- c. Provide appropriate training in laws, policies, and procedures to each designated employee;

- d. Advise the designated Customs Officers (Excepted) about court proceedings concerning seizures or arrests made by them in accordance with the authorities granted by HSI contemplated under this MOU; and
- e. Process, under appropriate regulations, any injury claim submitted as a result of injuries occurring to the designated Customs Officers (Excepted) while such individuals are acting pursuant to this MOU, for compensation under the Federal Employee Workers Compensation Act (5 U.S.C. § 8101, et seq.).

Washington DOC agrees:

- a. That only sworn law enforcement officers of the Washington Department of Corrections who successfully complete the appropriate HSI Task Force Officer cross-designation Training Course and receive an approved "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001) will be designated as Customs Officers (Excepted);
- b. That each law enforcement officer will be bound by the Authorities Granted and the Endorsements and Restrictions as noted on the "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001);
- c. To advise HSI of each court proceeding in which the validity of a Customs Officer (Excepted)'s enforcement authority becomes an issue, and allow HSI to provide legal memoranda or other assistance as deemed necessary by HSI;
- d. That agency employees designated as Customs Officers (Excepted) will follow HSI directives and instructions when utilizing enforcement authority conveyed by HSI;
- e. To provide to HSI, before designation of each officer and on an ongoing basis, any derogatory information, or information that may call into question the officer's truthfulness or ability to testify in court; and
- f. To return all HSI-issued equipment and identification when a cross-designated officer terminates employment or when his or her cross-designation expires.

Both Parties agree:

- a. That any abuse of HSI cross-designation authority may lead to the revocation of such cross-designations by HSI; and
- b. To schedule periodic meetings to review this MOU, as required.

5. **REPORTING AND DOCUMENTATION.** HSI SAC offices will maintain the original signed "Designation, Customs Officer (Excepted) – Title 19 Task Force Officer" (ICE Form 73-001). Copies of this form will be held by the Contraband Smuggling Unit at HSI Headquarters, the designated Customs Officer (Excepted), and the Washington Department of Corrections.

If applicable, the HSI office will maintain documentation of designated Customs Officers (Excepted) approved to use HSI vehicles and certification that the designated Customs Officers (Excepted) have completed the ICE Fleet Card Training in Virtual University and any other fleet related training.

6. POINTS OF CONTACT.

HSI Office: Seattle
Name: William J. Puff
Title: Assistant Special Agent in Charge
Address: 1000 2nd Avenue, Suite 2300
Seattle, WA 98104
Telephone Number: +1 (206) 442-2240
Fax Number: +1 (206) 442-2201
E-mail Address: william.puff@doj.dhs.gov

Washington DOC
Name: Michael Poston
Title: Community Corrections Supervisor
Address: 1250 Pacific Ave Ste 850
Tacoma, WA 98402
Telephone Number: +1 (253) 377-5536
Fax Number:
E-mail Address: maposton@DOC1.WA.GOV

7. OTHER PROVISIONS. This MOU is an internal agreement between the Parties and does not confer any rights, privileges, or benefits to any other party or the public.

Nothing in this MOU is intended to conflict with current laws, regulations, or policies of either Party. If a term of this MOU is inconsistent with such authority, that term shall be invalid but the remaining terms and conditions of this MOU shall remain in full force and effect.

Nothing in this MOU is intended or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Anti-Deficiency Act, 31 U.S.C. §§ 1341-1619.

The forms and authorities referenced herein may be renamed or replaced by HSI without prejudice to this MOU.

8. EFFECTIVE DATE. The terms of this MOU will become effective on the date the last Party signs the MOU. The Designation Form of each Customs Officer (Excepted) is effective per the date on that document.

9. MODIFICATION. This MOU may be amended by the written concurrence of both Parties.

10. TERMINATION. This MOU may be terminated by either Party upon a 30-day written notification to the other Party.

APPROVED BY:

Bradford A. Bench
Bradford A. Bench
Name of HSI Official

Special Agent in Charge
Title of HSI Official
Homeland Security Investigations
U.S. Immigration and Customs Enforcement

Date: 8/18/2014

Gary Banning
Gary Banning
Name of WA DOC 's Official

Contractor Administrator
Title of WA DOC 's Official
Name of WA DOC 's Agency

Date: 7/31/14

SAC Office:

SAC Seattle

Agency Name: Washington Department of Corrections
Tax ID Number:
NCIC: WA034015G
Address: 7345 Lindersen Way, Tumwater, WA 98501
Contact Name: Michael Poston
Phone: 253-377-5536
Email: mjposton@dccl1.wa.gov

Officers (list below):

**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN
IMMIGRATION AND CUSTOMS ENFORCEMENT AND LOCAL,
COUNTY, OR STATE LAW ENFORCEMENT AGENCY FOR THE
REIMBURSEMENT OF JOINT OPERATIONS EXPENSES FROM
THE TREASURY FORFEITURE FUND**

This Agreement is entered into by the Washington State Department of Corrections (NCIC CODE # WA034015G) and Immigration and Customs Enforcement (ICE), SAC / Seattle for the purpose of the reimbursement of costs incurred by the Washington State Department of Corrections in providing resources to joint operations/task forces.

Payments may be made to the extent they are included in the ICE Fiscal Year Plan, and the money is available within the Treasury Forfeiture Fund to satisfy the request(s) for the reimbursement of overtime expenses and other law enforcement expenses related to joint operations.

I. LIFE OF THIS AGREEMENT

This Agreement becomes effective on the date it is signed by both parties. It remains in force unless explicitly terminated, in writing, by either party.

II. AUTHORITY

This Agreement is established pursuant to the provisions of 31 USC 9703, the Treasury Forfeiture Fund Act of 1992, which provides for the reimbursement of certain expenses incurred by local, county, and state law enforcement agencies as participants of joint operations/task forces with a federal agency participating in the Treasury Forfeiture Fund.

III. PURPOSE OF THIS AGREEMENT

This Agreement establishes the responsibilities of both parties and the procedures for the reimbursement of certain overtime expenses and other law enforcement expenses pursuant to 31 USC 9703.

IV. APPLICABILITY OF THIS AGREEMENT

This agreement is valid for all joint investigations led by ICE SAC / Seattle, with the participation of the Washington State Department of Corrections, and until terminated, in writing, by either party.

V. TERMS, CONDITIONS, AND PROCEDURES

A. Assignment of Officer(s)

To the maximum extent possible, the Washington State Department of Corrections shall assign dedicated officers to any investigation or joint operation. Included as part of this Agreement, the Washington State Department of Corrections shall provide the ICE SAC / Seattle with the names, titles, four last digits of SSNs, badge or ID numbers, and hourly overtime wages of the officer(s) assigned to the joint operation. This information must be updated as necessary.

B. Submission of Requests for Reimbursement (Invoices) and Supporting Documentation

1. The Washington State Department of Corrections may request the reimbursement of overtime salary expenses directly related to work on a joint operation with ICE SAC / Seattle, performed by its officer(s) assigned to this joint operation. In addition, the Washington State Department of Corrections may request reimbursement of other investigative expenses, such as travel, fuel, training, equipment and other similar costs, incurred by officer(s) assigned as members of the designated joint operations with the ICE SAC / Seattle.

The Washington State Department of Corrections may not request the reimbursement of the same expenses from any other Federal law enforcement agencies that may also be participating in the investigation.

2. Reimbursement payments will not be made by check. To receive reimbursement payments, the Washington State Department of Corrections must ensure that Customs and Border Protection, National Finance Center (CBP/NFC) has a current ACH Form on file with the agency's bank account information, for the purposes of Electronic Funds Transfer. The ACH Form must be sent to the following address:

CBP National Finance Center
Attn: Forfeiture Fund
6026 LAKESIDE BLVD.
INDIANAPOLIS, IN 46278

If any changes occur in the law enforcement agency's bank account information, a new ACH Form must be filled out and sent to the CBP/NFC as soon as possible.

3. In order to receive the reimbursement of officers' overtime and other expenses related to joint operations, the Washington State Department of Corrections must submit to ICE SAC / Tacoma the TEOAF Form "Local, County, and State Law Enforcement Agency Request for Reimbursement of Joint Operations Expenses (Invoice)", signed by an authorized representative of that agency and accompanied by supporting documents such as copies of time sheets and receipts.
4. The Washington State Department of Corrections remains fully responsible, as the employer of the officer(s) assigned to the investigation, for the payment of overtime salaries and related benefits such as tax withholdings, insurance coverage, and all other requirements under the law, regulation, ordinance, or contract, regardless of the reimbursable overtime charges incurred. Treasury Forfeiture Fund reimburses overtime salaries. Benefits are not reimbursable.
5. The maximum reimbursement entitlement for overtime worked on behalf of the joint investigation is set at \$15,000 per officer per year.
6. The Washington State Department of Corrections will submit all requests for the reimbursement of joint operations' expenses to ICE SAC / Seattle, at the following address: 1000 2nd Ave, Seattle, Washington 98104, Attn. SAC Bradford Bench, Ph. (206) 442-2200.

VI. PROGRAM AUDIT

This Agreement and its provisions are subject to audit by ICE, the Department of the Treasury Office of Inspector General, the General Accounting Office, and other government designated auditors. The Washington State Department of Corrections agrees to permit such audits and agrees to maintain all records relating to these transactions for a period not less than three years; and in the event of an on-going audit, until the audit is completed.

These audits may include reviews of any and all records, documents, reports, accounts, invoices, receipts of expenditures related to this agreement, as well as interviews of any and all personnel involved in these transactions.

VII. REVISIONS

The terms of this Agreement may be amended upon the written approval by both parties. The revision becomes effective on the date of approval.

VIII. NO PRIVATE RIGHT CREATED

This is an internal government agreement between the ICE SAC / Seattle and the Washington State Department of Corrections, and is not intended to confer any right or benefit to any private person or party.

Signatures:

David A. Bench

Bradford A. Bench
Special Agent in Charge
HSI SAC / Seattle

Date: 8.1.2013

Gary Banning

Gary Banning
Program Administrator
Washington State
Department of Corrections

Date: 7/26/13

SAC Office:	SAC Seattle
Agency Name:	Washington State DOC
Tax ID Number:	
NCIC:	WA034015G
Address:	1550 4th Avenue South Seattle, WA
Contact Name:	98134-1510
Phone:	Leslie Mills
Email:	206-391-8904
	leslie.mills@doc.wa.gov

Officers (list below):